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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,860

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Robert C. Fitzpatrick

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FOLEY AND LARDNER LLP

SUITE 500

3000 K STREET NW

WASHINGTON, DC 20007

EXAMINER

LANDOLFI, JR., STEVEN M

ART UNIT

PAPER NUMBER

4137

MAIL DATE

DELIVERY MODE

11/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/537,860

**Applicant(s)**

FITZPATRICK, ROBERT C.

**Examiner**

STEVEN LANDOLFI, JR.

**Art Unit**

4137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- Paper No(s)/Mail Date 06/08/2005

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by FR Patent 1,331,808 entitled "A Motor Vehicle Having a Multi-purpose Panel" ('808).

'808 teaches:

In reference to claim 1

A collapsible cargo system for a vehicle comprising: a flexible panel (Fig. 7; 13); at least one trim panel coupled to the vehicle (Figs. 7-8; 7); a plurality of generally parallel, spaced apart support members coupled to the panel (Fig. 8; 12, 14) and configured to releasably couple the panel to the at least one trim panel (Fig. 7); wherein at least one of the support members includes an interface portion (Fig. 8; 11a-b, 15a-b) configured to selectively engage apertures on the at least one trim panel (Figs. 7-8); wherein the panel is deployable in a plurality of use positions wherein the support members are generally cross-car in the vehicle and the interface portion is engaged with one of the apertures on the at least one trim panel (Figs. 7-8), and deployable in a stowed position (The panel disclosed

in '808 is determined to be capable of being deployed in a "stowed position" such as flat against the trunk floor or folded and placed somewhere in the trunk).

In reference to claim 4

The cargo system of claim 1 (see rejection of claim 1 above) wherein the plurality of use positions comprise a first use position (Fig. 8/Pg. 3; ll. 103-116), a second use position (Fig. 8/Pg. 3; ll. 116-130) and a third use position (Fig. 8/Pg. 4; ll. 1-11) wherein the support members are generally cross-car in the vehicle (Figs. 7-8) and the interface portion is engaged with the at least one trim panel (Fig. 8), and deployable in a stowed position (The panel disclosed in '808 is determined to be capable of being deployed in a "stowed position" such as flat against the trunk floor or folded and placed somewhere in the trunk).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 5-6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over '808 in view of DE 4110089 A1, published 10/1/92 ('089).

In reference to claim 2

'808 teaches:

The cargo system of claim 1 (see rejection of claim 1 above) wherein the support members comprise two or more main battens (Fig. 8; 12, 14) wherein the main battens have the interface portions (Fig. 8; 11a-b, 15a-b).

'808 fails to disclose:

at least one support batten.

'089 teaches:

A deployable cargo system (1) including support members (Fig. 3; 15a-e, 16) comprising a main batten (Fig. 3; 16) and at least one support batten (Fig. 3; 15a-e), wherein the main batten has an interface portion (Fig. 1; 17-18).

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to add at least one support batten disclosed in '089 to the flexible panel of the cargo system disclosed in '808. The two panels are similar in structure and use, and it would be reasonable for one having ordinary skill in the art to combine them. The motivation for adding at least one support batten would be to provide extra support and rigidity for anything on top of the panel when in use.

In reference to claim 3

'808 modified by '089 teaches:

The cargo system of claim 2 (see rejection of claim 2 above)

'808 (embodiment in Figs. 7 and 8) fails to disclose:

wherein each aperture is a slot defined by a bezel.

'808 (embodiment in Figs. 5 and 6) teaches:

A deployable cargo system (Figs. 5-6) including a flexible panel (Fig. 6) with supports having interface portions (Fig. 6; 45, 39) that engage apertures (Fig. 5; 28) in a trim panel (Fig. 5; 7), wherein each aperture is a slot defined by a bezel (See figure A below).

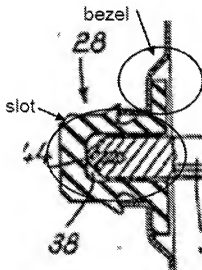


Fig. A - annotated by Examiner

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to substitute the recessed apertures disclosed in Fig. 5 for the projecting apertures disclosed in Fig. 8. The two aperture configurations are part of different embodiments in the same invention and the combining of the two is determined to be within the level of ordinary skill in the art. Using the aperture disclosed in Fig. 5 would allow for more coverage area of the storage area. The spring and rod configuration of Fig. 8 is capable of being maintained and used in conjunction with the recessed aperture to allow the supports to engage the slots.

In reference to claim 5

'808 teaches:

The cargo system of claim 2 (see rejection of claim 2 above) wherein the main battens (Fig. 8; 11) engage the at least one trim panel (Fig. 8) [by bending of the main battens, aligning the interface portion with the aperture, and releasing the main batten to its relaxed state] (This is a functional limitation which the panel disclosed by '808 is capable of performing, that is, a user could bend the main battens (12, 14), align the interface portion (11a-b, 15a-b) with the aperture (8c), and allow the batten to return to its relaxed state as a means for engaging the trim panel).

In reference to claim 6

'808 teaches:

The cargo system of claim 2 (see rejection of claim 2 above) wherein the panel is collapsible for storage when in the stowed position (The panel disclosed in '808 is determined to be capable of being "collapsible" and deployed in a "stowed position" such as folded or rolled up and placed somewhere in the trunk).

5. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over '808 in view of US Patent No. 920,633 to Oppenheimer (Oppenheimer) and US Patent No. 2,889,097 to Broehl (Broehl).

In reference to claim 7

'808 teaches:

The cargo system of claim 1 (see rejection of claim 1 above).

'808 fails to disclose:

a frame rotatably coupled to the at least one trim panel.

Oppenheimer teaches:

A rotatable frame (14) for supporting a panel or shelf (16) that is coupled to a wall bracket (5).

Broehl teaches:

An adjustable support frame (Fig. 3; 17) with wall bracket (Fig. 3; 16) for supporting a panel or shelf (31) inside a storage portion of a vehicle (Figs. 1-3).

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to include the rotatable frames and shelf disclosed by Oppenheimer with the overall cargo system disclosed in '808. The Oppenheimer wall brackets would be attached to the interior side walls of the vehicle (same location as '808 trim panel), as taught by Broehl. The motivation for including this structure would be to provide further storage options within the vehicle. The modified system would contain a frame rotatably coupled to the trim panel.

In reference to claim 8

The modified '808 system teaches:

The cargo system of claim 7 (see rejection of claim 7 above) wherein the frame (Oppenheimer – 14) is coupled to the at least one trim panel (the frame is coupled to the wall brackets of Oppenheimer, which are attached to the trim panel of '808 in the modified system) by engagement of a detent on the frame (Oppenheimer – 18) and apertures (Oppenheimer – 13) on the at least one trim



panel (the wall bracket apertures are on the trim panel because the wall bracket is attached to the trim panel in the modified system), wherein the frame is biased so that the detent engages apertures in the at least one trim panel (Fig. 2/Pg. 1; ll. 75-81).

In reference to claim 9

The modified '808 system teaches:

A collapsible cargo system for a vehicle (Figs. 7-8) comprising: a flexible panel (Fig. 7; 13); a plurality of generally parallel, spaced apart support members coupled to the panel (Fig. 8; 12, 14) and configured to releasably couple the panel to the vehicle (Fig. 7); and a frame rotatably coupled to an interior component (Oppenheimer – 14); wherein at least one of the support members includes an interface portion (Fig. 8; 11a-b, 15a-b) configured to selectively engage the interior component of the vehicle (Figs. 7-8); wherein the panel is deployable in a first use position wherein the support members are generally cross-car in the vehicle and the interface portion is engaged with the interior component (Figs. 7-8), and deployable in a stowed position; (The panel disclosed in '808 is determined to be capable of being deployed in a "stowed position" such as flat against the trunk floor or folded and placed somewhere in the trunk); and wherein the frame is coupled to the interior component by engagement of a detent (Oppenheimer – 18) on the frame and apertures on the frame (Oppenheimer – 13), wherein the frame is biased so that the detent

engages apertures in the interior component (Oppenheimer – Fig. 2/Pg. 1; ll. 75-81).

6. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over '808 in view of Oppenheimer and Broehl as applied to claim 9 above, and further in view of '089.

In reference to claim 11

The modified '808 system teaches:

The cargo system of claim 9 (see rejection of claim 9 above) wherein the support members comprise two or more main battens (Fig. 8; 12, 14), wherein the main battens have the interface portions (Fig. 8; 11a-b, 15a-b).

'808 fails to disclose:

at least one support batten.

'089 discloses

A deployable cargo system (1) including support members (Fig. 3; 15a-e, 16) comprising a main batten (Fig. 3; 16) and at least one support batten (Fig. 3; 15a-e), wherein the main batten has an interface portion (Fig. 1; 17-18).

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to add at least one support batten disclosed in '089 to the flexible panel of the cargo system disclosed in '808. The two panels are similar in structure and use, and it would be reasonable for one having ordinary skill in the art to combine them. The

motivation for adding at least one support batten would be to provide extra support and rigidity for anything on top of the panel when in use.

In reference to claim 12

The modified '808 system teaches:

The cargo system of claim 11 (see rejection of claim 11 above).

'808 (embodiment in Figs. 7 and 8) fails to disclose:

wherein each aperture is a slot defined by a bezel.

'808 (embodiment in Figs. 5 and 6) teaches:

A deployable cargo system (Figs. 5-6) including a flexible panel (Fig. 6) with supports having interface portions (Fig. 6; 45, 39) that engage apertures (Fig. 5; 28) in a trim panel (Fig. 5; 7), wherein each aperture is a slot defined by a bezel (See figure A below).

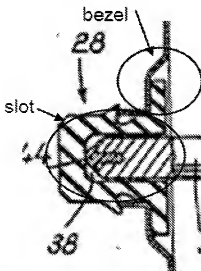


Fig. A - annotated by Examiner

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to substitute the recessed apertures disclosed in Fig. 5 for the projecting

apertures disclosed in Fig. 8. The two aperture configurations are part of different embodiments in the same invention and the combining of the two is determined to be within ordinary skill in the art. Using the aperture disclosed in Fig. 5 would allow for more coverage of the storage area. The spring and rod configuration of Fig. 8 is capable of being maintained and used in conjunction with the recessed aperture to allow the supports to engage the slots.

In reference to claim 10

The modified '808 cargo system teaches:

A collapsible cargo system for a vehicle (Figs. 7-8) comprising: a flexible panel (Fig. 7; 13); a plurality of generally parallel, spaced apart support members coupled to the panel (Fig. 8; 12, 14) and configured to releasably couple the panel to the vehicle (Fig. 7); wherein at least one of the support members includes an interface portion (Fig. 8; 11a-b, 15a-b) configured to selectively engage an interior component of the vehicle (Figs. 7-8); wherein the panel is deployable in a first use position wherein the support members are generally cross-car in the vehicle and the interface portion is engaged with the interior component (Figs. 7-8), and deployable in a stowed position (The panel disclosed in '808 is determined to be capable of being deployed in a "stowed position" such as flat against the trunk floor or folded and placed somewhere in the trunk); wherein the support members comprise two or more main battens (Fig. 8; 12, 14), wherein the main battens have the interface portions (Fig. 8; 11a-b, 15a-b); and wherein the main battens engage the interior component by bending of the

main battens, aligning the interface portion with an aperture on the interior component, and releasing the main batten to its relaxed state (This is a functional limitation which the panel disclosed by '808 is capable of performing, that is, a user could bend the main battens (12, 14), align the interface portion (11a-b, 15a-b) with the aperture (8c), and allow the batten to return to its relaxed state as a means for engaging the trim panel).

'808 fails to disclose:

at least one support batten.

'089 discloses

A deployable cargo system (1) including support members (Fig. 3; 15a-e, 16) comprising a main batten (Fig. 3; 16) and at least one support batten (Fig. 3; 15a-e), wherein the main batten has an interface portion (Fig. 1; 17-18).

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to add at least one support batten disclosed in '089 to the flexible panel of the cargo system disclosed in '808. The two panels are similar in structure and use, and it would be reasonable for one having ordinary skill in the art to combine them. The motivation for adding at least one support batten would be to provide extra support and rigidity for anything on top of the panel when in use.

In reference to claim 13

The modified '808 cargo system teaches:

The cargo system of claim 10 (see rejection of claim 10 above) further comprising a frame rotatably coupled to the at least one trim panel (see rejection of claim 7 above).

In reference to claim 14

The cargo system of claim 13 (see rejection of claim 13 above) wherein the frame is coupled to the at least one trim panel by engagement of a detent on the frame and apertures on the at least one trim panel, wherein the frame is biased so that the detent engages apertures in the at least one trim panel (see rejection of claim 8 above).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 6,176,535 to Chaloult et al. and US Patent No. 5,893,597 show similar cargo systems. US Patent No. 6,007,283 to Labeur show a cargo system with a panel that can be rearranged to many positions with an aperture panel. US Patent No. 5,967,054 shows a cargo system that includes a rotatable frame.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN LANDOLFI, JR. whose telephone number is (571)270-7420. The examiner can normally be reached on Monday - Friday 8 a.m. - 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEN BOMBERG can be reached on (571)272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. L./  
Examiner, Art Unit 4137

/Kenneth Bomberg/  
Supervisory Patent Examiner, Art Unit 4137